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9 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. AL 2005-143

12 MICHAEL A. APFFEL
25328 Bellview Street
13 Hemet, CA 92544

A C C U S A T I O N

14 Occupational Therapist License No. OT 8760

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Heather Martin (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the California Board of Occupational Therapy, Department of
21 Consumer Affairs.

22 2. On or about April 26, 2006, the California Board of Occupational Therapy issued
23 Occupational Therapist License Number OT 8760 to Michael A. Apffel (Respondent). Said
24 license will expire on February 28, 2009, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the California Board of Occupational Therapy
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1 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code (Code) unless otherwise indicated.

3 4. Code section 2570.18 states:

4 (a) On and after January 1, 2003, a person shall not represent to the public
5 by title, by description of services, methods, or procedures, or otherwise, that the
6 person is authorized to practice occupational therapy in this state, unless
7 authorized to practice occupational therapy under this chapter.

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9 5. Code section 2570.28 states:

10 The board may deny or discipline a licensee for any of the following:

11 (a) Unprofessional conduct, including, but not limited to, the following:

12 (b) Procuring a license by fraud, misrepresentation, or mistake.

13 (c) Violating or attempting to violate, directly or indirectly, or assisting in or
14 abetting the violation of, or conspiring to violate, any provision or term of this
15 chapter or any regulation adopted pursuant to this chapter.

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17 FACTS

18 6. Prior to January 1, 2003, occupational therapists working in California were
19 required to be certified by the National Board for Certification in Occupational Therapy,
20 previously known as the American Occupational Certification Board. Respondent had been
21 licensed by the American Board since approximately 1994.

22 7. On January 1, 2001, the Occupational Therapy Practice Act established by Statutes
23 2000, Chapter 697 (Senate Bill 1046) became effective. (Code sections 2570.3 and 2570.18.)
24 The Act required occupational therapists to become licensed by the State on and after January 1,
25 2003.

26 8. In and after 2000, the National Board for Certification in Occupational Therapy,
27 the American Occupational Therapy Association, and the Occupational Therapy Association of
28 California disseminated information and newsletters to California occupational therapy

1 practitioners notifying them of the licensure requirement. In February of 2002, the California
2 Occupational Therapy Board sent applications and instructions to all occupational therapists
3 (OTRs) working in California and certified by the National Board to apply and obtain a license in
4 time for the licensing requirement effective date.

5 9. On March 30, 2006, Respondent submitted an application for licensure to the
6 California Occupational Therapy Board. In his application Respondent stated that he had worked
7 for Tenet Home Care, in Palm Springs, California from May, 2000 to April, 2005 as an OTR. He
8 also stated that he had been employed in the capacity of a home health OTR by Care South of the
9 Desert, also in Palm Springs, from April 1, 2005, up to the time he completed his application.

10 10. On April 11, 2006, Board enforcement staff opened an investigation to determine
11 whether Respondent practiced in an unlicensed capacity based on the work history listed in his
12 application. Respondent was directed to provide additional information to the Board's
13 enforcement unit for review. Respondent failed to respond to enforcement staff requests of April
14 11, 2006 and June 16, 2006, regarding his work history.

15 11. On April 24, 2006, Board licensing staff inadvertently issued to Respondent an
16 OTR license, occupational therapist license number OT 8760, while allegations of unlicensed
17 practice were being investigated.

18 12. On July 28, 2006, Board staff requested that the Department of Consumer Affairs'
19 Division of Investigation (DOI) conduct a formal investigation of Respondent's employment
20 history and unlicensed practice.

21 13. The DOI investigation of Respondent's employment history revealed that Tenet
22 Home Healthcare was once an affiliate of Desert Regional Medical Center and that Tenet Home
23 Healthcare was sold to Care South of the Desert and that this organization had subsequently
24 terminated operations. Respondent had been employed as an occupational therapist by Tenet
25 Corporation between May 23, 1994 and April 1, 2005.

26 14. Respondent admitted that he worked from January 1, 2003 to April 23, 2006 as an
27 occupational therapist without a State of California occupational therapist license.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unlicensed Practice of Occupational Therapy)**

3 15. Respondent is subject to disciplinary action under section 2570.18(a) in
4 that he represented to the public by title, by description of services, methods, or procedures, or
5 otherwise, that the he was authorized to practice occupational therapy in this State without first
6 obtaining a license to do so, as set forth in paragraphs 6 through 14, above.

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8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

10 16. Respondent is subject to disciplinary action for unprofessional conduct under
11 section 2570.28(c) in that he violated a provision or term of the Occupational Therapy Practice
12 Act by working as an occupational therapist without a license, as set forth in paragraphs 6
13 through 14, above.

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15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 17. Respondent is subject to disciplinary action for unprofessional conduct under
18 section 2570.28(b) in that his occupational therapist license was procured by mistake, as set forth
19 in paragraphs 6 through 14, above.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the California Board of Occupational Therapy issue a
23 decision:

24 1. Revoking or suspending Occupational Therapist License Number OT 8760,
25 issued to Michael A. Apffel.

26 2. Ordering Michael A. Apffel to pay the California Board of Occupational
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1 Therapy the reasonable costs of the investigation and enforcement of this case, pursuant to
2 Business and Professions Code section 125.3;

3 3. Taking such other and further action as deemed necessary and proper.

4
5 DATED: October 30, 2008



HEATHER MARTIN
Executive Officer
California Board of Occupational Therapy
Department of Consumer Affairs
State of California
Complainant